

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4350 OF 2005**

Smt. Noorjahan @ Radhika
Azad Kanani

...Applicant

Vs.

The State of Maharashtra ...Respondents

Shri. Shuamkumar V. Marwadi for the Applicant.
Shri. R.Y. Mirza, A.P.P. for the Respondents.

**CORAM : A.S.OKA, J.
DATED : JULY 26, 2005.**

P.C.:

1. Rule. Learned A.P.P. waives service for the

Respondents. Challenge in this Petition is to the show cause notice issued under Section 111 of the Code of Criminal Procedure, 1973. The learned Counsel appearing for the Applicant submitted that the issuance of show cause notice itself is illegal and he has placed reliance on decision of this Court reported in 1996(2) Maharashtra Law Journal, 662 (Lalookhan Haideralikhan Vs. M.M. Kamble, Special Executive Magistrate, Byculla Division, Bombay and Others). He submitted that show cause notice deserves to be quashed. The learned A.P.P. submitted that the Petitioner has not filed reply to the show cause notice and Petition challenging show cause notice should not be entertained.

2. Normally a Petition for challenging show cause

notice is not entertained by this Court. It is always open for the Applicant to file a reply to the show cause notice and request the authority to drop the

further proceedings. The Applicant has not filed any reply till today. Petition can be disposed of by permitting the Applicant to file reply within a period of four weeks from today. After reply is filed, the concerned authority will have to pass an appropriate order after complying with principles of natural justice. Considering the facts and circumstances of the case, if an order is passed against the Applicant, the Applicant deserves to be protected for a limited period.

3. Hence, I pass the following order:

: O R D E R :

i) It will be open for the Applicant to file a reply to the show cause notice within a period of four weeks from today.

ii) After period of four weeks from today, the concerned authority is free to pass the appropriate order after following principles of natural justice.

iii) If any adverse order is passed against the Applicant, the same shall not be given effect for a period of three weeks from date of communication of said order to the Applicant.

iv) All questions on merits are kept open.

v) Rule is made partly absolutely in the above terms.

vi) No orders as to costs.

. Parties to act upon an authenticated copy of this order.

JUDGE